



ANTI-DOPING: RATIONAL POLICY OR MORAL PANIC?

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Professor Verner Møller, Section for Sport at Aarhus University, opened the conference with a short presentation of recent anti-doping cases that indicate a shift from rational policy to moral panic. In the wake of the doping revelations in the Tour de France 1998, the establishment of the World Anti-Doping Agency (WADA) appeared to be an appropriate measure to ensure a harmonised, coordinated and effective anti-doping programme on a national and international level. Yet this task may prove to be insurmountable. The recent, apparently unequal, treatment of cyclists, who have been discovered with clenbuterol in their blood, bears witness to the difficulties related to forming a harmonised and coordinated anti-doping programme. Likewise, the fact that the average speed of the Tour de France peloton has not decreased since the creation of WADA suggests that the anti-doping efforts are highly inefficient. The question is whether under these conditions it is rational to intensify the testing and surveillance of athletes. In fact, the current testing and surveillance methods have arguably moved beyond proportion already; e.g. when athletes are obliged to give up the privacy of their bodies and expose their genitals when delivering urine samples. It is not unreasonable to claim that this violation of the athletes' rights does not stem from rational policy, but from moral panic.

The aim of the conference's second speaker, Professor of Sociology at Swansea University Charles Critcher, was to clarify the notion of moral panic. Drawing on the work of Stanley Cohen, Critcher presented a model of moral panics to explicate the generic traits: a moral panic concerns an issue that is considered new and threatening; the media will cover the issue in a sensationalistic fashion, creating folk devils and exaggerating the actual threat posed; an elite consensus consisting of politicians, pressure groups, the clergy etc. emerges; the knowledge of experts is disregarded and opposition is rendered ineffectual; a moral panic appears and disappears quickly; furthermore, the issue is considered a matter of morality, of good and evil, and for these reasons legislation resulting from moral panic usually becomes disproportionate to the issue. This descriptive model makes it possible to point out connections between seemingly unrelated cases of moral panic. However, Critcher argues, that this is not the full picture. It is necessary to understand moral panics in the broader context of moral regulation; it should be regarded as an extreme instance of a continuous process of debate about acceptable and unacceptable behaviour. This on-going debate, he claimed, will often be complex and flawed, when the moral order of an institution is fragile. Linking these

observations on moral panic to the question of anti-doping policy, Critcher concluded that anti-doping work is a clear case of moral regulation, which on occasion takes the form of a moral panic. This, he noted, for an obvious reason: the moral order of sport is inherently fragile, because sport is a constant opportunity to behave immorally.

Challenging the view that anti-doping work has to do with a genuine moral panic, the conference's third speaker Frank Furedi, Professor of Sociology at University of Kent, emphasised public involvement as a necessary condition for moral panics. If the concern of politicians, officials and the media does not resonate with the public, it should rather be regarded as a case of moral crusading. Although many areas of life are subject to moralising debate, only few of these debates are able to mobilise a moral panic and alter people's behaviour. This, Furedi argued, is due to the weakness of moral consensus in Western societies: a clear symptom of the present volatility of moral issues is the lack of confidence and coherence in moralising discourse. Thus, in anti-doping policy there is tension between two separate discourses: a moral discourse concerned with cheating and a medical discourse that focuses on potential health risks. However, Furedi concluded, the media debate on doping does not seem to reflect the public's opinion on the matter.

Unlike the preceding speakers Eva Smith, Professor of Law at the University of Copenhagen, focused on the judicial consequences of moral panics, using the attack on the World Trade Center in 2001 as her primary example. In the aftermath of this event Danish politicians (along with politicians in many other countries) felt obligated to minimise the risk of a similar attack. This led to an increase of the investigative means available to the police (e.g. new measures for surveying suspects and the general public such as personal tapping etc.) and to a widening of the definition of a terrorist activity (e.g. to include giving financial support to a humanitarian organisation, which then redistributes the money to a terrorist organisation). Originally, the new means for crime solving were restricted to cases of terrorism, but soon thereafter they were extended to include ten more crimes. Consequently the anti-terror legislation diminishes the rights of the general public (e.g. the right to privacy). It has also, Smith argued, undermined other basic legal principles (e.g. the equality of arms). It is noteworthy, Smith pointed out, that the anti-doping legislation, which also seems to spring from (albeit a different) moral panic also fails to comply with basic legal principles, such as the presumption of innocence, the equality of arms and the *mens rea*. Although the use of doping is not a matter for the criminal court, this is problematic. After all, she concluded, the basic legal principles are needed to ensure the justice of judicial procedures, and to be convicted for the use of doping still has serious economic and social consequences.

After Smith's presentation the conference divided into two parallel sessions. In his paper *Circumstances and Behaviour – A compendium of scientific basics in doping*

prevention as a base for new aspects in future science Dr. Tino Symanzik, who opened session A, argued that if the mechanisms behind the doping abuse of athletes in the past are known, it will be possible to change the structure to fight doping more effectively in the future. Today we know that the growing sports structure (e.g. the commercialisation etc.) since the Second World War has led to circumstances that have had a significant influence on the use of doping in sports. For this reason the German Federal Institute of Sport Science (Bundesinstitut für Sportwissenschaft [BISp]) advanced science projects in the fields of anti-doping work and doping prevention. We know a lot about the influence of the aforementioned circumstances and the behaviour of the athletes in the field of doping. A lot has been done to make it more difficult for people to use doping. There are theoretic models, empiric studies and practical projects. Nevertheless, he maintained, many models need further development, many studies needs to be transferred into the practical work and some projects are still awaiting assessment He then went on to present the five technical terms that determine the scientific discourse in doping prevention – primary, secondary and tertiary prevention as well as circumstantial and behavioural prevention. The aim of the research presented was to describe the different influences on and the connections in sports by using different types of empirical studies, but also to include the genetic, the physiological and psychological as well as cultural and natural behaviours that typically lead to doping. The results will in all likelihood, he said, reveal which fields are most influential in the doping prevention. However, the battle against doping, he concluded, will be a huge challenge. Hence there is an urgent need for determination of the course of the future doping prevention to unite scientific findings.

Symanzik was succeeded by Dr Anne-Marie Elbe who under the heading: “To pee or not to pee: Implications of urine doping controls on athletes' well-being” presented a thought-provoking case study about the urine doping controls that elite athletes have to undergo on a regular basis. During these controls, athletes have to deliver at least 90ml of urine with their genitals under the strict observation of a doping control agent. Many athletes, she added, describe this procedure as unpleasant, and delays occur in over 50% of the controls. Almost half of these delays, which are caused by the athletes' inability to urinate, exceed one hour. This problem (termed psychogenic urine retention) during doping controls is a phenomenon distinct from the clinical disorder paruresis, the inability to urinate in public restrooms. Elbe discussed the negative implications of this inability to urinate both from the athletes' as well as the doping control agents' perspective, based on the results of three different studies she had conducted in collaboration with colleagues from the University of Potsdam and the Central Laboratory of the Cologne Clinics in Germany, funded by the German Federal Institute of Sport Science. Her final argument was that the current undignified and unpleasant regime ought to be replaced by a new approach, namely the use of a urine marker, which allows

athletes to urinate without supervision. Why this marker approach had not yet been made available for athletes was, she suggested, probably due to conflicting interests rather than rational scientific arguments since the method was foolproof.

From the concrete study of Elbe, PhD student Pieter Bonte took the topic in the opposite direction with a philosophical reflection about the possibility of “dignified doping”.

Bonte’s point was that decisive, pressing reasons underlie the battle against doping, primarily the sports organisation’s desire to maintain the image of their sports. In connection with this, it is assumed that a humane ‘Spirit of Sport’ (SoS) and health, fair play and the ethic of authenticity are at stake. He then moved on to argue that WADA’s belief – that all doping practices (DPs) violate the SoS, and the SoS cannot tolerate a single DP – is wrong. Challenging this perception, Bonte argued that this sweeping denunciation is too clear-cut to do justice to the facts of human enhancement technology (HET) in sports. He went on to present two alternative views, namely that (1) certain overlooked or misconstrued DPs can be considered as not merely permissible but positively dignified methods for acquiring athletic skill, under the strong proviso that they are undertaken as virtuous explorations of bodily virtuosity; (2) the common view that the SoS is about virtuous perfection of natural talent could be a ‘talentocratic’ position rooted in a fixed ‘Vitruvian’ view of human perfection and a discriminatory “Nietzschean view of justice, according to which it is unfair if those who are less fit (...) rob the genuinely strong Übermensch of his genetic advantage.” Unconvinced by such talentocratic views he finally proposed a non-Vitruvian, non-Nietzschean alternative. This alternative was tougher than the current anti-doping work on those who ‘cheat’, while evading talentocratic bias. It would he maintained, in a crucial sense, be conservative. Bonte built his alternative on the humanistic art of living tradition to critique sport as paid profession and industry, as well as all cultism of ‘perfection’ and ‘purity’. The ‘thick and restorative humanistic ethic’ he argued should prove a more formidable opponent both for libertarianism and for WADA’s apparent talentocratic bias.

Opening session B, Dr. Ian Richie, Brock University, Canada, analysed the historical development of Canadian anti-doping legislation. Since the 1980s, the anti-doping movement has been presented as both organised and principled. Yet, when watching the emergence of the movement's most important policies against the background of Canadian doping incidents, it becomes clear, he argued, that the anti-doping work is essentially reactionary, in the sense that it reacts to points of crisis in Canada's sport system in order to minimise public controversy. For instance Canada's first anti-doping policy ('Drug Use and Doping Control') was formulated in the wake of the public scandal at the Pan American Games in Caracas, Venezuela, where two Canadian weightlifters tested positive for steroid use. Hence, Ritchie

concluded, the driving forces behind Canadian anti-doping initiatives have been reactionary panic rather than rational action.

The second speaker of the session, Dr. Thomas M. Hunt University of Texas, Austin, delivered an ethical and judicial critique of the USADA (United States Anti-Doping Agency). It is crucial, he noted, to recognise the hybrid nature of the USADA: the costs and managerial responsibilities are partly carried by the state, and the investigative and enforcement partnership between the sports system and the law enforcement agencies is close at hand. Since the USADA is not an autonomous organisation it should comply with the American Constitution. However, the sports organisations have monopolised appellate oversight of doping offenses and consequently, athletes have lost their rights to public judicial reviews. Furthermore, the requirement of 'proof beyond reasonable doubt', which is the standard used in US criminal proceedings, has been changed by the USADA to proof to 'comfortable satisfaction'. From a judicial point of view, Hunt argued, this is highly problematic, and from an ethical point of view the athlete ought to be given the benefit of the better standard.

Closing the session Dr. Paul Dimeo, University of Stirling, Scotland, questioned the validity of a dichotomy between rational policy and moral panic. Even though there are several aspects of present anti-doping work that can be considered irrational (e.g. the inconsistency of the list of prohibited drugs, or the very attempt to create a drug-free sport, which, Dimeo held, is an idealistic aspiration rather than a realistic ambition), the concept of rationality is not an 'either-or', but a matter of degree. Compared to many other areas of sports policy, he claimed, anti-doping policy has in fact been quite rational. Among the rational features of current anti-doping policy is the formation of WADA, which has resulted in the establishment of global guidelines regarding anti-doping work, and a monitoring system that is reasonably transparent. Although it can be argued that anti-doping policy stems from moral panic, this fact does not yield the conclusion, Dimeo argued, that anti-doping policy is not rational.

The last session began with a lecture by Professor of Sociology, Ross Coomber, from the University of Plymouth. Coomber contended that an analysis of fear as it relates to drug policy today must look at fear prior to the modern age, because the discourse on drugs – rather than being defined by contemporary events – is a framework developed around bygone fears. The condemnation of doping may be a new phenomenon. Yet the discourse on doping in the sporting world is still merely a reflection of society's general discourse on drugs, he argued. The policy-making around drugs at the beginning of the 20th century was not based on new, enlightened knowledge, but on fear fueled by exaggeration, racism, classism and puritan morality (e.g. in the US madness and violence was thought to be an almost immediate and inevitable consequence of cannabis use; in the UK the working class

was accused of failing as parents by doping their children with opium). Thus drugs taken for non-medical purposes were associated with evil. Although these beliefs are inconsistent with the evidence base, the myths of instant addiction etc. remain widespread. It is against this background, Coomber argued, that present anti-doping work ought to be seen: Initially the use of performance-enhancing drugs in sport was acceptable. By the 1960s, however, the non-sporting world was dealing with several drugs scares (around amphetamine, cocaine etc.). This panic was formulated in the old discourse around drugs, which led to the demonisation of people using drugs for non-medical purposes; for example 'mods' and 'rockers', but this in turn led to anti doping policy.

The final speaker of the day, John Hoberman Professor of Germanic languages at University of Texas at Austin, focused on the macro-sociological obstacles facing contemporary anti-doping work. The most obvious problems arise, he pointed out, with the enormous task of global regulation itself. In many countries for instance, the pharmaceutical culture is not amenable to being managed as WADA would prefer, since medical drugs can be obtained easily without prescription. The second important problem concerns the relationship between WADA and the major sports federations such as UCI and FIFA. Contrary to WADA, these organisations (which are billion dollar industries) have an inherent wish to maintain the image of their sports and to avoid scandals that would result from efficient drug testing. For this reason, the collaboration between sports federations and WADA seems unlikely to improve the current anti-doping work. In addition, WADA's Director General David Howman has reported that the criminal underworld is involved in the doping industry. This has caused enthusiasm about allying WADA with international law enforcement agencies. However, Hoberman argued, if the attempt to create a doping-free sport entails fighting organised crime, it is reasonable to ask, whether WADA is not in over its head. It seems probable that these macro-sociological obstacles will continue to subvert anti-doping work well into the foreseeable future.

The opening lecture of day two was given by Erich Goode, Professor of Sociology at Stony Brook University. Goode's primary aim was to analyse doping as a case of deviant behaviour. It is important to keep in mind, he noted, that a behaviour is deviant only if the surrounding society considers it to be so. Thus doping has not been a deviant practice prior to the 20th century. In order to explain the persistence of drug use in sports despite society's condemnation of it, Goode introduced the concept of anomie; the mismatch between individual conditions and the surrounding social norms. And since Pierre de Coubertin athletes have been expected to show sportsmanship. Yet at the same time, the pressure on athletes to perform at highest level has become immensely fierce: Excelling in high level sport and showing sportsmanship is an antithesis. When a collectivity values something (e.g. winning in sports) people are motivated to achieving it. When the collectivity then decides that a means of achieving it is illegal and deviant, some people seek to

achieve it through illicit means. Anomie theory puts the temptation for deviance on the structural basis. However, it puts the decision to deviate on an individual basis. The system, Goode concluded, has a built-in tendency to violate the rules, because the reward is great and because the risk of being caught is very small. Therefore, some will always succumb to temptation.

The second speaker of day two Dr. Despina Mavromati from the Court of Arbitration for Sport (CAS) shed light on the ongoing discussions regarding the policy on the biological passport, in view of the awards recently rendered by the CAS in Lausanne: The CAS is often called to rule as the last instance on decisions rendered by National or International Federations (NFs and IFs, respectively) related to anti-doping rule violations. In its decisions, CAS is called to apply and interpret the policy principles as they are established by the IFs and WADA. Recently, WADA and some IFs adopted the "Athlete Biological Passport Operating Guidelines" and this gave rise to a few awards rendered by the CAS in this respect. Mavromati's presentation thus introduced the prospects of the analysis of the legal findings of those awards that she argued will help draw some interesting conclusions as to what constitutes a biological passport, the degree of evidence required for the establishment of a violation of the anti-doping rules as well as the applicability and the interpretation of the rules related to the biological passport.

Regarding doping as essentially unobjectionable to a modernistic ethic, the following speaker – Bernat López, Professor of Audiovisual Communication, Advertising and Journalism at Universitat Rovira i Virgili, argued that it is anti-doping, rather than doping, that needs explanation. The success of anti-doping campaigns (in terms of mobilising an almost unilateral condemnation of performance enhancing drug-taking) is based on a discourse of fear, which for several reasons ought to be considered propaganda. All propaganda, he argued, entails a disconnection between facts and discourses. In the case of anti-doping work, the ethos of scientific rhetoric has been used to create an image of doping as dangerous and potentially lethal, despite a very weak evidential basis. Secondly, he argued, propaganda uses repetition in order to manufacture 'truths'. A striking example of this is the insistent claims about the EPO deaths in the late 1980s and the early 1990s. Having analysed 60 academic and journalistic texts on this issue, Lopez concluded that more than 95% took the link between certain athletes' sudden deaths and EPO at face value without substantiation of this strong claim. When the number of sudden deaths among athletes during that period of time is compared to epidemiological studies on sudden death, there is nothing suspicious, in statistical terms, about that number. Two institutions have been responsible for the manufacturing of the myth of EPO deaths: the expert community engaged in anti-doping activities and the mass media. As Lopez concluded, this is not coincidental: the discourse of fear is useful to the anti-doping campaign, and it finds an easy way to the mass media, because fear is entertaining and entertainment is central to "media logic".

After Lopez' presentation the conference's second round of parallel sessions took place.

The historian Dr. Erkki Vettenniemi opened session A by presenting his research into the ban on EPO. Most doping researchers seem to have overlooked in their research that erythropoietin (EPO) was prohibited for the first time by the FIS (i.e. in cross-country skiing) as early as 1988. The IOC followed suit two years later. Vettenniemi explained that his research was based on contemporary media sources and more recent disclosures that originated in Finland and focused on the crucial years 1988–1989. While reconstructing the prohibition process, Vettenniemi shed light on the utterly unintentional consequences of the current anti-doping mentality. Hidden agendas seem to undermine well-meaning intentions in this field of human activity. The campaign against EPO was launched by the Finnish ski authorities during the 1988 Winter Games, although, at first, no health hazards were attributed to EPO. It was merely claimed that the novel red blood cell booster would somehow render competitive sport meaningless. Once the hormone was banned, Finnish scientists in association with the national ski team initiated a research programme that was meant to culminate in a valid test method for EPO. Subsequently, Vettenniemi told us, that there was indirect evidence to the effect that prominent Finnish skiers had access to EPO in the build-up to the 1989 Nordic World Ski Championships held in Lahti, Finland. Athletes representing other countries were persuaded not to experiment with EPO for fear of getting caught in controls, he maintained before concluding that such an outcome is probably not what the anti-doping authorities originally aimed at, and that it questions the motives of other hastily conceived drug bans.

PhD student Evdokia Pappa followed up with a paper rethinking moral panic in the presence and absence of Olympic doping scandals. This paper was informed by media theory and began by informing that recent theorisations of moral panics have emphasised the regularity of the appearance of volatile moralising discourses within the media. Studies by Hier (2008) and McRobbie and Thornton, (1995) report that moral panics have become an everyday communication technique consciously employed by journalists, politicians and commerce. Despite this, contemporary moral panics still exhibit all the characteristics identified by authors such as Stanley Cohen and Erich Goode and Nachman Ben-Yehuda. They erupt suddenly, they are over-reported, they are intense and they last for a short period of time. Drawing on this insight, Pappa argues that, at the moment a scandal erupts, doping can be understood in the terms of these moral panic theorisations. However, when the scandal recedes, a less intense moralizing discourse around doping continues to be part of the sport media as a series of secondary news stories. Pappa made the point that it is this subsequent period of reporting that generates the possibility of the next doping scandal to erupt.

Session A was closed by Dr. Werner Pitsch who made the provoking suggestion that sport scientists may serve as prophets of a moral crisis. Every moral system can be understood as the result of an incremental development of social norms, he began. Therefore, for a social scientist, the question of whether “anti-doping” is a form of “moral panic” immediately links this phenomenon to social scientific theories of crisis. Herbert Blumer’s theory of the development of social problems, he continued, can give us an insight into the roles, the motivations and the impact of different actors in the discursive production of a social problem. Blumer pointed out, that social problems do not exist as empirical facts, but emerge with the social recognition of a phenomenon, which is labeled as harmful or malignant. To exemplify his point, Pitsch mentioned that “doping in recreational sport” neither the extent of the phenomenon nor its impact and seriousness could be described empirically so far. Nevertheless, there are already attempts to remedy this plague. He then explained the extent and function to which sports scientists are involved in the development of this social problem. He did this by analysing the publications on doping in recreational sport in sport scientific journals using both qualitative and quantitative content analysis. He concluded that the involvement of sport scientists in the production of this social problem both lies in the definition of the problem offered by scientists as well as the competences they offer to solve the problem.

Session B was opened by Dr. Ask Vest Christiansen by bluntly stating that for politicians and officials, a tough stance against use of doping drugs is an efficient way to raise one's profile in the public. Accordingly it can be observed that people generally have strong opinions about young men's use of anabolic steroids in connection with weight training. Thus unsurprisingly, it can be observed that it evokes a response in the public when politicians or officials call for stricter regulation and more control with doping substances. Through analysis of high profile cases on anabolic steroid use among teenagers and examples from his own research, Christiansen discussed what it is about anabolic steroid use that gives many people strong feelings on the subject and how this is coupled to what could be called a 'common sense of justice'. Ideally, legislation should build on rationality and reason alone he maintained. However legal issues addressing the human body have much greater awareness in the general public than other legal questions, since they address our feelings and not just our intellect. A consequence hereof is that legislation concerning the body to a larger extent than other sorts of legislation is tied to feelings, he argued. This is why there is a tendency for public debate, as well as the policy on the area, to tilt towards moral panic rather than rational policy.

PhD student Andreas Kimergård continued the theme on doping in gyms addressing the position of dealers of performance-enhancing drugs as a public health issue. Under Danish law, certain doping substances may not be possessed or supplied except when used for prevention or treatment of illness. According to this legal framework distribution of doping substances may result in two years

imprisonment. Recently it has been suggested that the law is amended to make such an offense punishable by a maximum period of six years imprisonment, similar to the penalty for dealing drugs controlled under the law on psychoactive substances, Kimergaard informed. Presumably, such a proposal aims to limit the availability of doping substances. However, estimating the effectiveness of the fight against doping through longer prison sentences for dealing doping substances presents difficulties. In fact, there is little evidence to support the claim that increasing sentences for drug related offenses acts as a greater deterrent. Nevertheless, during societies' moral panics over drugs, the dealer has remained a favourite target for both policy-makers and law enforcement, he noted, before presenting his data collected in three qualitative research interviews with dealers of performance-enhancing drugs operating within the UK. These interviews were undertaken while doing fieldwork research over a six month period in harm reduction clinics and gyms in England and Wales. From the knowledge obtained in these interviews, he discussed the key role of such dealers as gatekeepers to drugs. The consequences of making prohibition the principle mechanism for regulating performance-enhancing drugs overshadow the health needs of users he concluded.

According to the last speaker of the session, Lecturer Martin Hardie at Deakin University, the call for evidence based policy making and rational law (in anti-doping legislation as in other judicial systems) expresses a longing for a romantic, but constructed past. In fact, he claimed, the very notion of rationality is inadequate to the present day of age: it is attached to modernity in a time where modernity has come to an end. For this reason, law no longer operates on a level playing field where all are treated equal before the law, and it is futile to demand that it should. The only proper response to the postmodern era, Hardie concluded, is to adopt a new terminology and a new logic suitable for understanding these new conditions.

After the parallel sessions, the conference convened again for the final presentations before the closing panel discussion. Medical Director Rasmus Damsgaard addressed the problem from a "hands on" natural scientific point of view under the term "Rational Panic". Modern doping control is based on scientific facts, he began. The introduction of the biological passport by WADA enabling the sport bodies to construct individual profiles is a paradigm shift in doping control, exemplified by the exchange of the population based upper limits to statistical derived, individual upper and lower limits. Despite the scientific approach, a few spectacular doping cases have occurred he conceded, explaining that unambiguous EPO cases have been missed due to a delay in updating the EPO guidelines making responsible anti-doping members of international federations (IF) panic, because the scientific evidence was rational and overwhelming. In contrast, an IF has in panic pursued a blood profile case based on unexpected blood data that rationally could be categorised as doping related, but if scrutinised was nothing but blood data from an unrecognised, benign medical condition. Lastly, the marginal amounts of clenbuterol

that in 2010 and 2011 was detected in several urine tests. Some of these cases have been finalised within weeks, whereas others have taken months to a year, and yet others are still pending, he complained, before he concluded that the rational for a doping case is present but the very different handling of the cases has a touch of panic to it.

General Director of WADA David Howman, who had observed the entire conference, gave the last speech of the conference by summing up his impression and challenge some of the arguments he had heard whilst also conceding that there are serious problems that WADA face and that they are difficult to handle because of conflicts of interest. Fairness of the system was a major concern, which made him ponder the possibility of a change of testing strategy away from national anti-doping bodies testing their own athletes toward a strategy where national doping agencies were instead responsible for the testing of other nations' athletes. In any case, WADA was constantly looking for improvement of anti-doping work, so all proposals for ways forward were welcome, he ended, before the panel debate took place.